

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
UNITED STATES DEPARTMENT OF JUSTICE
WASHINGTON, DC 20579

In the Matter of the Claim of	}	
	}	
	}	
	}	Claim No. ALB-329
JANULLA RRAPI	}	
	}	Decision No. ALB-313
	}	
Against the Government of Albania	}	

PROPOSED DECISION

This claim against the Government of Albania is based upon the alleged confiscation of real property located in Tirana and in St. Vasil, District of Sarande.

Under section 4(a) of Title I of the International Claims Settlement Act of 1949 ("ICSA"), as amended, the Commission has jurisdiction to

receive, examine, adjudicate, and render final decisions with respect to claims of . . . nationals of the United States included within the terms of . . . any claims agreement on and after March 10, 1954, concluded between the Government of the United States and a foreign government (exclusive of governments against which the United States declared the existence of a state of war during World War II) . . . providing for the settlement and discharge of claims of . . . nationals of the United States against a foreign government, arising out of the nationalization or other taking of property, by the agreement of the Government of the United States to accept from that government a sum in en bloc settlement thereof.

22 U.S.C. 1623(a)(2002).

The Governments of the United States and Albania concluded an agreement for en bloc settlement of claims of United States nationals against Albania on March 10, 1995. *Agreement Between the Government of the United States and the Government of the Republic of Albania on the Settlement of Certain Outstanding Claims*, March 10, 1995 (entered into force April 18, 1995) ("Settlement Agreement"). Claims covered by the Settlement Agreement are

the claims of United States nationals (including natural and juridical persons) against Albania arising from any nationalization, expropriation, intervention, or other taking of, or measures affecting, property of nationals of the United States prior to the date of this agreement[.]

Settlement Agreement, Article 1(a).

The claimant in this case appears to base the first part of her claim on property consisting of an apartment in Tirana which has been the subject of privatization proceedings in Albania since 1996 but has not been transferred to her possession and the possession of her sister, Leonara Lepuri, by the Albanian government. In addition, she appears to be claiming for property that beginning in 1942 had belonged to her grandfather, Spiro Gjoni, consisting of several hectares of land and olive groves located in St. Vasil, District of Sarande, that was later confiscated by the Albanian Communist regime. Claimant has not

indicated, however, whether her grandfather ever obtained United States nationality or when the property was confiscated by the Albanian government. In addition, claimant asserts that she should be awarded compensation for the Albanian Communist regime's confinement of her son in a mental hospital.

In support of her claim, the claimant has submitted evidence that she and her sister became United States nationals by naturalization in 1998 and 2000, respectively. In addition, she has submitted a translation of a "Sell-Buy Contract" and a "Privatization Contract" dated 11/12/1996 between her and her children, on the one hand, and the Communal Services Enterprise of Tirana Housing, as well as a plan of the apartment building to which the contract was related.

The ICSA mandates that the Commission decide claims in accordance with, *inter alia*, "[t]he applicable principles of international law." ICSA section 4(a)(2), 22 U.S.C. 1623(a)(2). It is a well-established principle of international law, which this Commission has applied without exception, that a claim may be found compensable only if the property which is the subject of the claim was owned by a national of the United States when the property was expropriated or otherwise taken. *See, e.g., Claim of EUGENIA D. STUPNIKOV Against*

Yugoslavia, Claim No. Y-2-0071, Decision No. Y-2-0003 (1967); *Claim of ILONA CZIKE Against Hungary*, Claim No. HUNG-2-0784, Decision No. HUNG-2-191 (1976); *Claim of JOSEPH REISS Against the German Democratic Republic*, Claim No. G-2853, Decision No. G-2499 (1981); *Claim of TRANG KIM Against Vietnam*, Claim No. V-0014, Decision No. V-0001 (1982). This principle has also been recognized by the courts of the United States. See e.g., *Haas v. Humphrey*, 246 F.2d 682 (D.C. Cir. 1957), cert. denied 355 U.S. 854 (1957).

Moreover, under the terms of the Settlement Agreement, the Commission's jurisdiction is limited to claims against Albania that arose prior to the Agreement's effective date of April 18, 1995. Settlement Agreement, Article 1(a).

In light of the foregoing, the Commission must conclude that it is without jurisdiction to consider claimant's claim relating to the apartment located in Tirana. Regardless of its merit or lack thereof, the claimant's statements and evidence indicate that the claim did not arise until 1996. There is no indication in the record that any member of her family had any ownership rights in the

apartment before 1996, and in any event, there is no evidence or indication that she or any member of her family held United States nationality before 1998.

Nor can the Commission give favorable consideration to the claimant's claim for the property said to have been owned by her grandfather. She has submitted no authoritative evidence, such as a land register extract, to establish his ownership of property in Albania, or its confiscation by the Albanian government; nor has she established that either her grandfather or any of his heirs ever held United States nationality at any time before April 18, 1995, or to establish that she was an heir of her grandfather's estate or a portion thereof.

Finally, the Commission regrettably is without jurisdiction to consider the portion of claimant's claim based on the confinement of her son in a mental hospital. Under the Settlement Agreement, the claims which the Commission may consider are limited to "claims arising from any nationalization, expropriation, intervention, or other taking of, or measures affecting, *property*." Settlement Agreement, Article 1(a). (Emphasis supplied.)

Accordingly, while the Commission sympathizes with the claimant concerning her family's losses, it must conclude that her claim is not compensable under the terms of the Settlement Agreement. Therefore, her claim must be and is hereby denied.

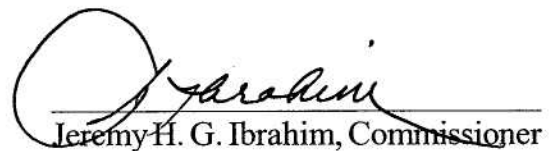
The Commission finds it unnecessary to make determinations with respect to other elements of this claim.

Dated at Washington, DC and
entered as the Proposed
Decision of the Commission

DEC 30 2004



Mauricio J. Tamargo, Chairman



Jeremy H. G. Ibrahim, Commissioner

NOTICE: Pursuant to the Regulations of the Commission, any objections must be filed within 15 days after delivery of this Proposed Decision. Absent objection, this decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such delivery, unless the Commission otherwise orders. FCSC Regulations, 45 C.F.R. 531.5 (e) and (g) (2003).